

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

In Re: J. Henderson

)  
)  
) Civil No. 08-56-P-S  
)  
)

**RECOMMENDATION THAT ACTION BE DISMISSED**

“J. Henderson” filed an “Application for Residency” and an application to proceed in forma pauperis on February 20, 2008. I entered an order to show cause on February 21, 2008, directing Henderson to file a compliant in forma pauperis application and to file an amended complaint that sets forth a cognizable federal cause of action.

I explained:

The gist of Henderson’s application appears to be that he wants this court, in an ex parte proceeding, to determine under federal law that his residency has changed from Michigan to Maine. Henderson alleges that someone, somewhere has denied his due process rights under federal law because Henderson wants to become a resident of Maine and has not been able to access the state courts in order to change his residency. Vaguely referenced in the application is a reference to Maine’s Adult Probation/Parole system which has apparently failed to assist him upon his release from Michigan’s “institutional village.” If Henderson believes his civil rights have been violated by Maine officials, he will have to name as respondents/defendants those individuals involved in the deprivation of his civil rights so they can be notified of the pendency of this lawsuit and given a chance to respond. This court will not entertain any “ex parte” proceeding.

Furthermore, although Henderson asserts “transition from Michigan to Maine pursuant to both statutory laws govern by the Federal Code for Residency & the Code of Federal Regulations,” he does not provide a statutory citation or reference and I have no knowledge of a generic Federal Code for Residency. Henderson also seems to be complaining that he has been denied access to Maine’s courts, but the exhibits he submits from both the Maine District Court and the Maine Probate court simply indicate that neither court has forms that Henderson can file in order to establish residency in the State of Maine. This response is not surprising because I, like the clerks of the two state courts that have been contacted, am not aware of any judicial process that could

sua sponte determine a person's residence. It seems to me most likely that any legal dispute involving residency in state or federal court would necessarily involve a legal action against a state individual, such as the Secretary of State or the head of the Department of Motor Vehicles or a municipal voter registration official who denied Henderson the legal rights of a resident once he had established his de facto residency in Maine.

(Feb. 21, 2008, Order Show Cause, Docket No. 3.)

I allowed Henderson until March 17, 2008, to file a properly completed application to proceed in forma pauperis, accompanied by a certified copy of his prison trust account, and to file an amended complaint that states a cognizable legal claim against a named individual or otherwise show cause why this application should not be summarily dismissed. On March 3, 2008, the court received a return of the envelope containing this order with an indication that the facility needed a prisoner number. The order was resent that same day. I have allowed Henderson a full week of additional time to respond and Henderson has filed nothing with the court. I now recommend that the action be dismissed for lack of prosecution.

#### NOTICE

A party may file objections to those specified portions of a magistrate judge's report or proposed findings or recommended decisions entered pursuant to 28 U.S.C. § 636(b)(1)(B) for which *de novo* review by the district court is sought, together with a supporting memorandum, within ten (10) days of being served with a copy thereof. A responsive memorandum shall be filed within ten (10) days after the filing of the objection.

Failure to file a timely objection shall constitute a waiver of the right to *de novo* review by the district court and to appeal the district court's order.

March 25, 2008.

/s/Margaret J. Kravchuk  
U.S. Magistrate Judge